IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6569 of 2007()

CRIME NO. 25/07 OF IRIKKUR POLICE STATION

PETITIONER : 7TH ACCUSED:

R.P.ABDUL RASAK, S/O.MOIDEENKUTTY,
AGED 31 YEARS, RESIDING AT RAVARIPATH HOUSE,
IRIKKUR AMSOM DESOM, TALIPARAMBA TALUK,
KANNUR DIST.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE S.H.O., IRIKKUR POLICE STATION,
KANNUR DIST., REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6569 of 2007

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Dated this the 5th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 7th accused. Altogether there are eight accused persons. They face allegations for offences punishable, inter alia, under Section 452 I.P.C. and Section 27 of the Arms Act. The alleged incident took place on 23.1.2007 at 10.30 p.m. All the other accused have been arrested and enlarged on bail. The alleged motive is the conduct of the defacto complainant leaving the U.D.F. and joining the L.D.F. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Solely on account of political animosity, the defacto complainant is making allegations. He is making use of the influence he has with the police, he being a member of the ruling party. The allegations are totally false and the petitioner may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor opposes the application. He submits that the materials collected clearly indicate the complicity of the petitioner. Specific overt acts are alleged against the petitioner. The petitioner's two wheeler was available in the premises also. In these circumstances there is no substance in the prayer for grant of anticipatory bail.

4. I have gone through the averments in the petition. I find merit in the opposition by the learned Prosecutor. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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